

UNITED STATES DISTRICT COURT
DISTRICT OF District of Massachusetts (Eastern Division)

DIRECTV, INC.,

Plaintiff,

Plaintiff,

vs.

Robert Viera

Defendant

Case No.: 03cv12288 RWZ

PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT

Plaintiff hereby moves this Court for a Judgment by Default in the above-entitled action against the Defendant. The Plaintiff also requests that this Court assess non-Liquidated Damages after considering the Plaintiff's filings made herewith. The Plaintiff contends that because the plaintiff is seeking only the statutory minimum or less the Court should be able to assess statutory damages in this action based upon the facts as determined through the Defendant's default all in accordance with Fed. R. Civ. P. 55(b)(2).

In support of this Motion, Plaintiff submits:

1. That a Default was entered against the Defendant on March 23, 2004.
2. That the Defendant has still failed to reply or otherwise defend the claims set forth in Plaintiff's complaint;
3. That the Defendant is not an infant or incompetent;
4. That the Defendant is not in the military service; and,
5. That the Plaintiff is entitled to damages and other civil remedies as set forth below because damages are liquidated in this case as they are based on a minimum statutory award of \$10,000.00 due to Defendant's conduct as alleged in DIRECTV's Complaint.

In further support of this Motion, please see:

1. Memorandum of Law in Support of Plaintiff's Motion for Default Judgment.
2. Affidavit of Attorney John M. McLaughlin.
3. Proposed Order of Default.

WHEREFORE Plaintiff respectfully requests that this Court enter Default Judgment in favor of the Plaintiff and against the Defendant for the reasons set forth above (and as further articulated in it's Memorandum of Law in Support of Plaintiff's Motion for Default Judgment), DIRECTV respectfully requests that this Court award to DIRECTV:

- (1) Full statutory damages in the amount of \$10,000.00;
- (2) Full costs in the amount of \$200.00;
- (3) Attorneys' fees in the amount of \$850.00;
- (4) Permanently enjoin Defendant from committing or assisting in the commission of any violation of 47 U.S.C. § 605 or 18 U.S.C. § 2511; and
- (5) Grant DIRECTV such other and further relief as this court deems equitable, just and proper.

Date

Respectfully Submitted for the Plaintiff,
DIRECTV, Inc.
By Its Attorney

John M. McLaughlin (BBO: 556328)
MCLAUGHLIN SACKS, LLC
31 Trumbull Road
Northampton, MA 01060
(413) 586-0865

CERTIFICATE OF SERVICE

I, John M. McLaughlin, attorney for the Plaintiff, hereby certify that on 4/23/04, I served a copy of the foregoing Motion for Default Judgment, Memorandum of Law, Proposed Judgment and Affidavit of John M. McLaughlin were sent via first class mail, postage pre-paid to:

Robert Viera
35 Longmeadow Rd.
Taunton, MA 8/10/2001



John M. McLaughlin